Refined Brown Aluminum Oxide From China

Investigation No. 731-TA-1022 (Preliminary)

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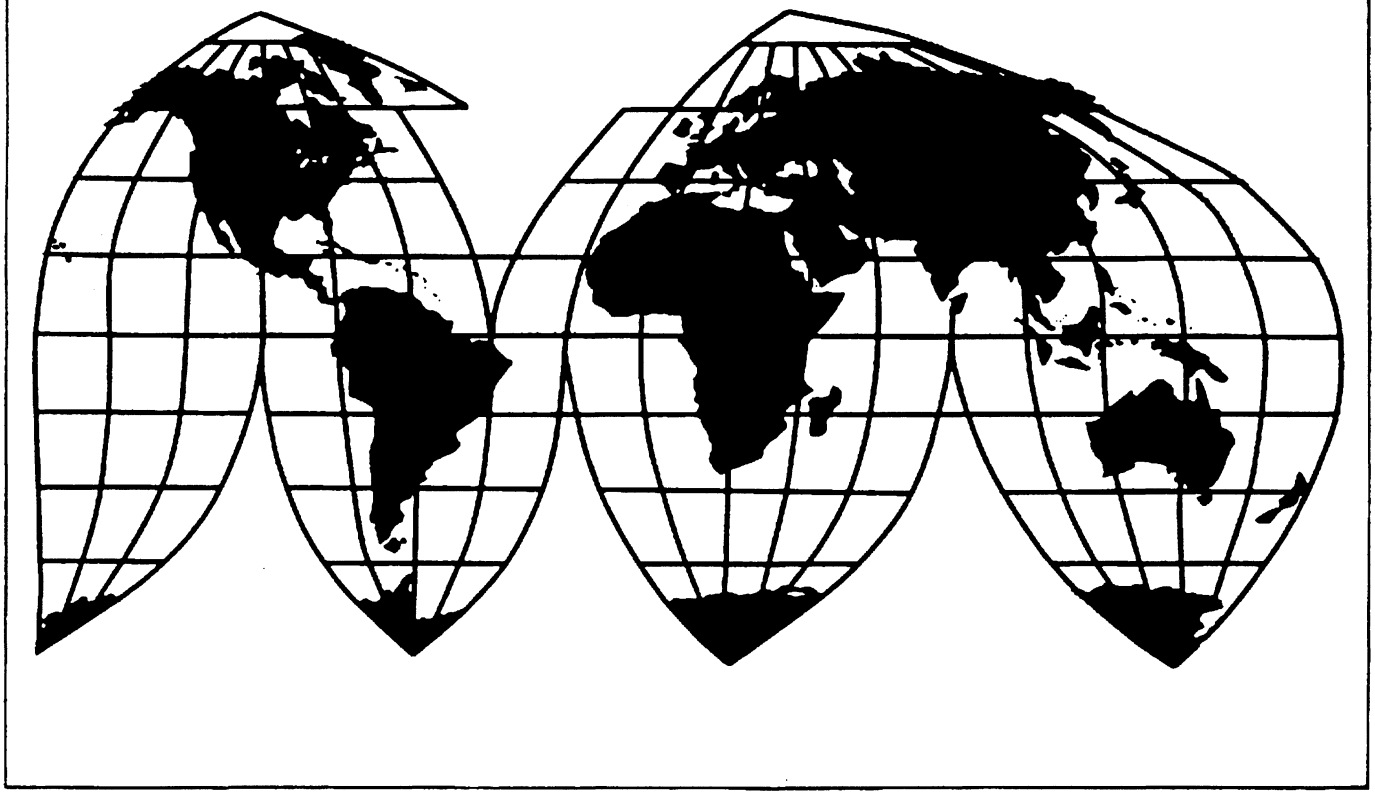
U.S. International Trade Commission



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Note.–Information that would reveal confidential operations of individual concerns may not be published and, therefore, has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1022 (Preliminary)

REFINED BROWN ALUMINUM OXIDE FROM CHINA

DETERMINATION

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China of refined brown aluminum oxide, provided for in subheading 2818.10.20 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

COMMENCEMENT OF FINAL PHASE INVESTIGATION

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

BACKGROUND

On November 20, 2002, a petition was filed with the Commission and Commerce by Washington Mills Company, Inc., North Grafton, MA,[2] alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of refined brown aluminum oxide from China. Accordingly, effective November 20, 2002, the Commission instituted antidumping duty investigation No. 731-TA-1022 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of November 29, 2002 (67 FR 71195). The conference was held in Washington, DC, on December 11, 2002, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] On November 27, 2002, the petition was amended to include two additional petitioners, C-E Minerals, King of Prussia, PA, and Treibacher Schleifmittel Corporation, Niagara Falls, NY.

VIEWS OF THE COMMISSION

Based on the record in this investigation, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of refined brown aluminum oxide ("RBAO") from China that allegedly are sold in the United States at less than fair value ("LTFV").

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured, threatened with material injury, or whether the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.[1] In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[2]

II. DOMESTIC LIKE PRODUCT

A. In General

To determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[3] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Act"), defines the relevant domestic industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[4] In turn, the Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation ...."[5]

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[6] No single factor is dispositive, and the Commission

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[1] 19 U.S.C. §§ 1671b(a), 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); Aristech Chemical Corp. v. United States, 20 CIT 353, 354-55 (1996). We note that no party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

[2] American Lamb, 785 F.2d at 1001 (Fed. Cir. 1986); see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

[3] 19 U.S.C. § 1677(4)(A).

[4] Id.

[5] 19 U.S.C. § 1677(10).

[6] See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp.2d 380, 383 (Ct. Int'l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case' "). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455, n.4; Timken Co. v.

(continued...)

may consider other factors it deems relevant based on the facts of a particular investigation.[7] The Commission looks for clear dividing lines among possible like products, and disregards minor variations.[8] Although the Commission must accept the determination of the Department of Commerce ("Commerce") as to the scope of the imported merchandise allegedly subsidized or sold at less than fair value, the Commission determines what domestic product is like the imported articles Commerce has identified.[9]

B. Product Description

Commerce has defined the imported merchandise within the scope of these investigations as:

> ground, pulverized or refined artificial corundum, also known as brown aluminum oxide or brown fused alumina, in grit size of 3/8 inches or less. Excluded from the scope of the investigation is crude artificial corundum in which particles with a diameter greater than 3/8 inch constitute at least 50 percent of the total weight of the entire batch. The scope includes brown artificial corundum in which particles with a diameter greater than 3/8 inch constitute less than 50 percent of the total weight of the batch. The merchandise under investigation is currently classifiable under subheading 2818.10.20.00 of the Harmonized Tariff Schedule of the United States (HTSUS).[10]

RBAO is a solid inorganic chemical, and is one of the forms of aluminum oxide in mined bauxites. It is made by crushing, grinding, and sieving aluminum oxide ingot or crude brown aluminum oxide.[11]

C. Domestic Like Product

We define the domestic like product as coextensive with the scope of this investigation. Petitioners argue that there is one domestic like product which corresponds to the scope defined by

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[6] (...continued)
United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

[7] See, e.g., S. Rep. No. 96-249, at 90-91 (1979).

[8] Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also S. Rep. No. 96-249, at 90-91 (1979) (Congress has indicated that the domestic like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

[9] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single domestic like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-52 (affirming Commission's determination of six domestic like products in investigations where Commerce found five classes or kinds).

[10] 67 Fed. Reg. 77223 (December 17, 2002).

[11] Confidential Staff Report ("CR") at I-2, Public Report ("PR") at I-2.

Commerce.[12] Petitioners further argue that white and pink aluminum oxide should not be included in the domestic like product definition. We have considered whether the domestic like product should include white and pink aluminum oxide and have concluded that it should not, for the following reasons.

In terms of physical characteristics, all aluminum oxide is composed of Al_2O_3, although white and pink refined aluminum oxide differ in color and are up to 99.9 percent pure in terms of chemistry, compared to RBAO, which is darker and 93-97 percent pure.[13] All refined aluminum oxide, whether brown or white and pink, is used in abrasive and refractory applications. White and pink aluminum oxide, however, reportedly are used in "separate, specialized" abrasive and refractory applications and, unlike RBAO, are not used at all in general industrial applications.[14] Interchangeability between RBAO, and white and pink aluminum oxide appears to be at best limited. RBAO apparently cannot be used in the specialized applications that call for white or pink aluminum oxide.[15] Considering interchangeability in the other direction, it is unclear whether the white/pink product could be used in applications calling for RBAO. Even if it could be, the much higher price for white/pink product would make this uneconomical. RBAO and white and pink aluminum oxide are sold in the same channels of distribution, nearly evenly divided between end users and distributors.[16] RBAO and white and pink aluminum oxide are made in different production facilities so as to avoid any contamination of the white or pink product with RBAO.[17] Customers perceive RBAO and the white/pink product as being different.[18] Finally, white and pink aluminum oxide apparently are considerably more expensive than RBAO.[19] In sum, the record in the preliminary phase of this investigation does not support including white and pink aluminum oxide in the domestic like product.

III. DOMESTIC INDUSTRY AND RELATED PARTIES

A. Domestic Industry

The domestic industry is defined as "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[20] In defining the domestic industry, the Commission's general practice has been to include in the industry all domestic producers of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[21]

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[12] The only respondent that participated in this preliminary phase investigation, Cometals, Inc., an importer of RBAO from China, did not address the domestic like product issue.

[13] Transcript of December 11, 2002 Conference ("Conference Transcript") at 14 (testimony of Peter Williams, President of Washington Mills Company, Incorporated).

[14] CR at I-2-3, PR at I-2-3; and Petitioners' Postconference Brief at A-4.

[15] CR at I-4, PR at I-2.

[16] CR at I-4, PR at I-3.

[17] CR at I-3, PR at I-2-3.

[18] CR at I-4, PR at I-3.

[19] CR at I-5, PR at I-3.

[20] 19 U.S.C. § 1677(4)(A).

[21] See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int'l Trade 1994), aff'd, 96 F. 3d 1352 (Fed. Cir. 1996).

Based on our domestic like product finding, we conclude that the domestic industry consists of all U.S. producers of RBAO, with the exception of Great Lakes Minerals, which we exclude from the domestic industry as a related party, as discussed below.[22]

B. Related Parties

We must further determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Act. That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.[23] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.[24]

There are five domestic producers of RBAO: C-E Minerals, Detroit Abrasives, Great Lakes Minerals, Treibacher Schleifmittel, and Washington Mills. Each of these companies imported the subject merchandise during the period examined[25] and thus are related parties under the statute. We examine for each producer individually whether appropriate circumstances exist to exclude the firm from the domestic industry.

C-E Minerals. C-E Minerals is owned by Imerys, a multinational corporation with headquarters in France. C-E Minerals only began U.S. production of RBAO in June 2002,[26] but the company accounted for *** percent of domestic production in January-September ("interim") 2002. Before it began domestic production, the company was a major importer of the subject merchandise.[27] Following the acquisition of the domestic producer Treibacher Schleifmittel by Imerys in July 2000, a decision was

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[22] Great Lakes Minerals imports RBAO from China and further processes it by crushing and sizing the product. In any final-phase investigation we intend to examine whether Great Lakes engages in sufficient production related activity in the United States to qualify as a domestic producer. The factors that the Commission traditionally considers in making such a determination are: (1) the source and extent of a firm's capital investment; (2) the technical expertise involved in U.S. production activities; (3) the value added to the product in the United States; (4) employment levels; (5) the quantity and type of parts sourced in the United States; and (6) any other costs and activities in the United States directly leading to production of the like product. See generally, e.g., Pure Magnesium from China and Israel, Inv. Nos. 701-TA-403 (Final) and 731-TA-895-96 (Final), USITC Pub. 3467 (November 2001) at 9-11.

[23] 19 U.S.C. § 1677(4)(B).

[24] Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude the related parties include: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, i.e., whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and (3) the position of the related producers vis-a-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry. See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interests of the related producers lie in domestic production or in importation. See, e.g., Melamine Institutional Dinnerware from China, Indonesia, and Taiwan, Inv. Nos. 731-TA-741-743 (Final), USITC Pub. 3016 (Feb. 1997) at 14, n.81.

[25] CR at IV-1, PR at IV-1.

[26] CR at III-3 n.8, PR at III-2 n.8

[27] CR at III-2, PR at III-2.

made that C-E Minerals would cease imports of the subject merchandise which previously had been in competition with Treibacher Schleifmittel's production. C-E Minerals stopped importing by the end of 2001 and began to produce RBAO in the United States in 2002.[28] Although it is not clear whether there was any temporal overlap between the company's sales of imports and the start of its production operations, the limited data on its production operations would not appear to have been distorted by any benefit from its importation of the subject merchandise. The financial results reported for the company in the Commission Report are for its domestic production operations only.[29] The company is a petitioner. Accordingly, we determine that appropriate circumstances do not exist to exclude C-E Minerals from the domestic industry.

Detroit Abrasives. Detroit Abrasives accounted for *** percent of domestic production in 2001. The company ***. It imported *** short tons of the subject merchandise in interim 2002.[30] By comparison, the company's net sales in interim 2002 were *** short tons.[31] Because ***, we determine that appropriate circumstances do not exist to exclude Detroit Abrasives from the domestic industry.

Great Lakes Minerals. Great Lakes Minerals accounted for *** percent of domestic production in 2001.[32] The company ***. Great Lakes Minerals imports RBAO from China and further processes it by crushing and sizing the product. Its imports of RBAO from China were equivalent to *** percent of its production throughout the period examined. The company is a *** importer of the subject merchandise: it accounted for *** percent of total imports from China in 1999, 2000, 2001, and interim 2002, respectively.[33] We conclude for purposes of this preliminary determination that appropriate circumstances exist to exclude Great Lakes Minerals from the definition of the domestic industry. The company ***, and thus presumably has a strong interest in maintaining its access to these imports. The company is a significant producer whose sales volumes and overall financial results towards the end of the period examined appear to reflect ***.[34] Indeed, Great Lakes' ***.[35] The company's share of the domestic industry's total sales *** over the period examined,[36] thereby increasing the potentially distortive effect of including the company in the domestic industry. We intend to reexamine the question of whether appropriate circumstances exist to exclude Great Lakes Minerals in any final phase investigation.

Treibacher Schleifmittel. Treibacher Schleifmittel accounted for *** percent of domestic production in 2001. Its imports of the subject merchandise were equivalent to *** percent of its production in 1999, 2000, 2001, and interim 2002, respectively. The company explained that it imports from China ***.[37] We determine that appropriate circumstances do not exist to exclude Treibacher Schleifmittel from the domestic industry, as its interests appear to lie more with domestic production than with importing. Compared to its domestic production, the volume of its imports was ***; its reason for importing was to ***. In addition, it is a petitioner.

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[28] CR at IV-1, PR at IV-1.
[29] CR/PR at Table VI-2.
[30] CR at III-4, PR at III-2.
[31] CR/PR at Table VI-2.
[32] CR at III-3, PR at III-2.
[33] CR at III-3, PR at III-2.
[34] CR/PR at Table VI-2.
[35] CR/PR at Table VI-2.
[36] CR/PR at Table VI-2.
[37] CR at III-2 n.5, PR at III-1-2 n.5.

Washington Mills. Washington Mills accounted for *** percent of domestic production in 2001. Its imports of the subject merchandise were equivalent to *** percent of its production in 1999, 2000, 2001, and interim 2002, respectively. The company explained that it imports from China ***.[38]

We determine that appropriate circumstances do not exist to exclude Washington Mills from the domestic industry, as its interests appear to lie more with domestic production than with importing. Compared to its domestic production, the volume of its imports was ***; its reasons for importing were ***. In addition, it is a petitioner.

IV. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LESS THAN FAIR VALUE IMPORTS[39]

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.[40] In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[41] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[42] In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[43] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[44]

For the reasons discussed below, we determine that there is a reasonable indication that the domestic industry producing RBAO is materially injured by reason of subject imports from China that allegedly are sold in the United States at LTFV.

A. Conditions of Competition

The following conditions of competition in the RBAO industry inform our determination.

RBAO has three general uses: (i) refractories (heat-resistant furnace linings); (ii) abrasives (bonded abrasives such as grinding wheels, and coated abrasives such as sandpaper); and (iii) general industrial uses (such as in polishing and blasting).[45] While some market participants described a cyclical business pattern, others described minimal-to-steady declines in demand due to importation of intermediate parts or finished goods, declining basic industrial applications, and technological changes. Data collected in this investigation show that aggregate demand, as measured by apparent U.S.

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[38] CR at III-1, PR at III-1.

[39] There is no issue regarding negligibility because imports of RBAO from China constituted substantially more than 3 percent of total imports in the period October 1, 2001 through September 30, 2002, the most recent 12 months for which import data are available. *See* 19 U.S.C. §1677(24) and CR/PR at Table IV-1.

[40] 19 U.S.C. §§ 1671b(a), 1673b(a).

[41] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B); see also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[42] 19 U.S.C. § 1677(7)(A).

[43] 19 U.S.C. § 1677(7)(C)(iii).

[44] 19 U.S.C. § 1677(7)(C)(iii).

[45] CR at I-2, PR at I-2, and Petition at 5-9.

consumption, increased by 23.5 percent between 1999 and 2000, but then fell by 18.1 percent in 2001 to a level comparable to that of 1999. Apparent U.S. consumption in interim 2002 was 10.4 percent lower than in interim 2001.[46] Demand for RBAO apparently has been adversely affected in 2001 and interim 2002, due to fewer furnace relines, soft conditions in the bonded and coated market, and general weakness in the U.S. manufacturing economy.[47]

The supply of RBAO to the U.S. market was affected by a corporate acquisition during the period examined. In 2000, Imerys (a multinational corporation headquartered in France) acquired the domestic producer Treibacher Schleifmittel. Imerys also owns C-E Minerals which had been an importer of RBAO from China. After Imerys' acquisition of Treibacher Schleifmittel, a decision was made that C-E Minerals would stop importing and became a domestic producer.[48] C-E Minerals began domestic production of RBAO in interim 2002. Thus, this acquisition led to the introduction of a new domestic producer and at least a temporary reduction in subject imports.

Another condition of competition affecting the supply of RBAO was the sale at low prices by the Defense Logistics Agency of its stockpile of crude aluminum oxide (the raw material used by domestic producers) in 1999 and 2000. Petitioners state that these stockpiles were purchased mainly by the domestic industry, but that these stockpile sales have now ceased.[49]

Overall, U.S. producers and U.S. importers report that RBAO produced in the United States generally is interchangeable with RBAO produced in China, as well as with imports from nonsubject countries.[50] Half of the responding U.S. importers did indicate non-price differences between U.S. and Chinese RBAO, primarily based on product quality and availability.[51] The substantial and growing quantity, market share, and inventory level in the United States of RBAO from China, however, suggest that the subject merchandise is not markedly inferior to the domestic like product in those attributes.

Non-subject imports were a sizable source of supply in the U.S. market during the period examined, rising from 31.1 percent of apparent U.S. consumption on a quantity basis in 1999 to 36.3 percent in 2000, but then falling to 28.6 percent in 2001.[52]

B. Volume of the Subject Imports

Section 771(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[53]

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[46] CR at II-3, PR at II-2 (demand) and CR/PR at Table IV-3 (apparent U.S. consumption). Fluctuations in apparent U.S. consumption may reflect in part changes in nonsubject imports, the volume of which is overstated in the record due to the inclusion of white and pink aluminum oxide in the relevant HTS subheading. We intend to seek more accurate data in any final investigation.

[47] Petitioners' Postconference Brief at 2-3.

[48] Conference Transcript at 11-12; and Petitioners' Postconference Brief at 3-4.

[49] Conference Transcript at 10-11, and 15; Petitioners' Postconference Brief at 4. There is no information in the record as to whether any further sales from, or purchases for, the stockpile are likely.

[50] CR/PR at Table II-2.

[51] CR at II-5, PR at II-3-4.

[52] CR/PR at Table C-2. We note that the share of apparent U.S. consumption accounted for by non-subject imports may be somewhat overstated because, as noted earlier, the HTS data on non-subject imports may include a certain amount of white and pink aluminum oxide, which are outside the scope of this investigation. CR/PR at Table IV-1. We intend to seek more accurate data in any final investigation.

[53] 19 U.S.C. § 1677(7)(C)(i).

The quantity of subject imports increased by 98.1 percent from 1999 to 2001. Subject imports rose from 37,485 short tons in 1999 to 61,538 short tons in 2000 and 74,258 short tons in 2001. In interim 2001 and interim 2002, subject imports were 59,877 short tons and 29,205 short tons, respectively.[54] The quantity of U.S. shipments of subject imports increased by 73.4 percent from 1999 to 2001. U.S. shipments of subject imports rose from 32,745 short tons in 1999 to 52,031 short tons in 2000 and 56,765 short tons in 2001. In interim 2001 and interim 2002, U.S. shipments of subject imports were 44,448 short tons and 47,732 short tons, respectively.[55] The market share of subject imports, measured on the basis of U.S. shipments of those imports, also increased substantially. The market share of subject imports was 18.2 percent in 1999, 23.4 percent in 2000, and 31.2 percent in 2001. The market share of subject imports in interim 2002 was 37.5 percent, higher than their market share of 31.3 percent in interim 2001.[56] The ratio of subject import volume to domestic production was *** percent in 1999, *** percent in 2000, *** percent in 2001, and *** percent in interim 2002.[57] Imports of the subject merchandise reportedly competed for sales in each of the three main end-uses for RBAO.[58]

For purposes of this preliminary determination, we find the volume and increase in volume of the subject imports, both in absolute terms, and relative to production and to apparent consumption in the United States, to be significant.

C. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

> (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
>
> (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[59]

Subject imports and the domestic like product appear to be at least moderately substitutable.[60] Accordingly, price is an important factor in purchasing decisions.[61]

The Commission sought pricing data for two types of RBAO. The information that the Commission obtained shows that prices for both the domestic like product and the subject imports generally declined over the period examined.[62] Subject imports undersold the domestic like product in

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[54] CR/PR at Table IV-1. The decline in imports in interim 2002, as compared with interim 2001, presumably was attributable, at least in part, to the cessation of imports by C-E Minerals.

[55] CR/PR at Table IV-3. We recognize that domestic producers imported some of the subject merchandise. CR/PR at Table IV-2. When the imports by *** and by *** are netted out, the adjusted shares of the domestic industry's imports to total imports were *** percent in 1999, *** percent in 2000, *** percent in 2001, *** percent in interim 2001, and *** percent in interim 2002. See Chart of Imports by Firm.

[56] CR/PR at Table IV-4.

[57] Calculated comparing CR/PR at Table IV-1 (subject import quantity) to CR/PR at Table C-2 (domestic industry production, excluding related party Great Lakes).

[58] CR at II-1, PR at II-1, and CR/PR at Table II-2.

[59] 19 U.S.C. § 1677(7)(C)(ii).

[60] CR/PR at Table II-2.

[61] CR at II-5, PR at II-3; CR/PR at Table II-1.

[62] CR/PR at Tables V-1 and V-2. For pricing product 1, the weighted-average quarterly prices for the U.S. produced product and the subject imports fell by 12.5 percent and 13.8 percent, respectively, over the period

(continued...)

all calendar quarters in which comparisons between subject imports and the domestic like product were possible.[63] The margins of underselling were substantial, ranging from 15.3 percent to 33.9 percent for one product, and *** percent to *** percent for the other. Distributors of RBAO testified at the conference in this investigation that subject import prices are lower than prices from domestic producers.[64] The record also contains some evidence of lost sales due to the lower priced subject imports.[65]

Based on the pricing data collected in this investigation, we find that there has been significant price underselling by the subject imports, and that increasing volumes of the subject merchandise depressed prices to a significant degree.[66]

D. Impact of the Subject Imports

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.[67] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[68] [69] [70]

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[62] (...continued)
examined. For pricing product 2, the weighted-average quarterly prices for the U.S. produced product and the subject imports fell by 6.8 percent and 27.7 percent, respectively, over the period examined. CR at V-5, PR at V-3.

[63] CR/PR at Tables V-1 and V-2. We recognize that these pricing data *** of domestically produced RBAO and of subject imports. We will consider collecting pricing data for additional RBAO products in any final phase investigation.

[64] Conference Transcript at 25-26 (Plonsker, AGSCO Corporation), 27-28 (Kane, Midvale Industries), and 28-29 (Bell, Precision Finishing, Incorporated).

[65] CR at V-9-11, PR at V-4, and CR/PR at Table V-3.

[66] We recognize that demand for RBAO and domestic producers' raw material costs fell over the period examined, and that these factors may have contributed to price declines. However, the evidence discussed above indicates that subject imports themselves had a significant price depressing effect.

[67] 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." Id. at 885).

[68] 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851 and 885 and Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 and 731-TA-812-813 (Preliminary), USITC Pub. 3155 (Feb. 1999) at 25, n.148.

[69] The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its notice of initiation, Commerce reported that petitioners have alleged estimated dumping margins of 131.38 percent. 67 Fed. Reg. 77223, 77225 (December 17, 2002).

[70] Commissioner Bragg notes that she does not ordinarily consider the magnitude of the margin of dumping to be of particular significance in evaluating the effects of subject imports on the domestic producers. See Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996); Anhydrous Sodium Sulfate from Canada, Inv. No. 731-TA-884 (Preliminary), USITC Pub. 3345 (Sept. 2000) at 11, n.63.

Most of the indicators of the domestic industry's condition declined over the period examined, or were weak throughout the period. As the subject imports increased their share of the U.S. market,[71] the domestic industry's production, sales, and shipments all declined.[72] At the same time, the domestic industry's inventories increased.[73]

The domestic industry's capacity remained constant over the period examined, except for an increase between interim periods.[74] [75] Capacity utilization rates rose slightly from 1999 to 2000, but then declined in 2001 and over the interim periods.[76]

Although the profitability of individual domestic producers varied greatly,[77] the overall operating results for the domestic industry were poor throughout the period examined.[78]

The domestic industry's employment and wages declined over the period examined,[79] while productivity and capital expenditures fluctuated.[80]

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[71] The market share of subject imports on a quantity basis rose from 18.2 percent in 1999 to 23.4 percent in 2000 and 31.2 percent in 2001. The market share of subject imports in interim 2002 was 37.5 percent, higher than their market share of 31.3 percent in interim 2001, notwithstanding the fact that C-E Minerals no longer was importing the subject merchandise in interim 2002. CR/PR at Table C-2. The domestic industry's market share declined from 50.7 percent in 1999 to 40.3 percent in 2000 and 40.2 percent in 2001. The domestic industry's market share was 39.8 percent in interim 2001 and 43.8 percent in interim 2002.

[72] Domestic production rose *** from *** short tons in 1999 to *** short tons in 2000, before falling *** to *** short tons in 2001. Domestic production in interim 2002, at *** short tons, was *** lower than in interim 2001, when it was *** short tons. CR/PR at Table C-2. The domestic industry's U.S. shipments fell from *** short tons in 1999 to *** short tons in 2000, and to *** short tons in 2001. These shipments were *** short tons and *** short tons in interim 2001 and interim 2002, respectively. Id. The industry's total net sales fell from *** short tons in 1999 to *** short tons in 2000 and *** short tons in 2001. Net sales were *** short tons and *** short tons in interim 2001 and interim 2002, respectively. Id.

[73] Inventories rose from *** short tons in 1999 to *** short tons in 2000 and *** short tons in 2001. Inventories were *** short tons and *** short tons in interim 2001 and interim 2002, respectively. CR/PR at Table C-2.

[74] Total domestic capacity was *** short tons in each full year of the period examined, and *** and *** in interim 2001 and interim 2002, respectively. CR/PR at Table C-2.

[75] We are mindful that some of the data for interim 2002 (for example, the data on capacity, capacity utilization, and capital expenditures) would have been affected by C-E Minerals' start of domestic production late in the period examined.

[76] Capacity utilization rates were *** percent in 1999, *** percent in 2000 and *** percent in 2001; they were *** percent and *** percent, respectively, in interim 2001 and interim 2002. CR/PR at Table C-2.

[77] CR/PR at Table VI-2. In particular, *** recorded *** operating losses throughout the period examined. ***, in contrast, recorded *** operating profits throughout the period. CR/PR at Table VI-2. See also appendix D, discussing *** financial situation which led to its acquisition by ***. In any final phase investigation, we intend to look closely at *** overall operations, the ramifications of its acquisition of ***, and *** own performance prior to ***.

[78] Operating income was *** in 1999, *** in 2000, and *** in 2001, and *** and ***, respectively, in interim 2001 and interim 2002. CR/PR at Table C-2. Operating income as a ratio to net sales was *** percent in 1999, *** percent in 2000, and *** percent in 2001, and *** percent and *** percent, respectively, in interim 2001 and interim 2002. Id.

[79] The number of production workers dropped from *** in 1999 and 2000 to *** in 2001, and was *** and *** in interim 2001 and interim 2002, respectively. CR/PR at Table C-2. The domestic industry paid its workers *** million in 1999 and 2000 and *** million in 2001, and *** million in interim 2001 and *** million in interim 2002. Id.

[80] The industry's productivity was *** short tons per 1,000 hours in 1999, *** short tons per 1,000 hours in 2000, *** short tons per 1,000 hours in 2001. In interim 2001 and interim 2002 productivity was *** short tons per

(continued...)

Based on the decline or sustained weakness in most of the indicators of the domestic industry's condition over the period examined, coincident with the increasing quantity of subject imports that significantly depressed the prices of the domestic like product, we find that the subject imports had a significant adverse impact on the domestic industry.

CONCLUSION

For the reasons stated above, we determine that there is a reasonable indication that the domestic industry producing RBAO is materially injured by reason of imports from China that allegedly are sold in the United States at less than fair value.

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[80] (...continued)
1,000 hours and *** short tons per 1,000 hours, respectively. CR/PR at Table C-2. Capital expenditures were *** in 1999, *** in 2000, *** in 2001, and *** and *** in interim 2001 and interim 2002, respectively. See CR/PR at Table C-2.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed by Washington Mills Company, Inc. (Washington Mills), North Grafton, MA, on November 20, 2002, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (LTFV) imports of refined brown aluminum oxide[1] from China. On November 27, 2002, the petition was amended to include two additional petitioners, C-E Minerals, King of Prussia, PA, and Treibacher Schleifmittel Corporation (Treibacher), Niagara Falls, NY. Information relating to the background of the investigation is provided below.[2]

Date	*Action*
November 20, 2002 .	Petition filed with Commerce and the Commission;[3] institution of Commission investigation (67 FR 71195, November 29, 2002)
December 11, 2002 .	Commission's conference[4]
December 17, 2002 .	Commerce's notice of initiation (67 FR 77223)
January 6, 2003	Commission's vote
January 6, 2003	Commission determination sent to Commerce

SUMMARY DATA

A summary of data collected in the investigation is presented in appendix C, tables C-1 and C-2. Except as noted, U.S. industry data are based on questionnaire responses of five firms that accounted for 100 percent of U.S. production of aluminum oxide during 2002. U.S. imports are based on importer questionnaire responses for China[5] and official statistics for all other sources.

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[1] For purposes of this investigation, refined brown aluminum oxide is defined by Commerce as "ground, pulverized or refined artificial corundum, also known as brown aluminum oxide or brown fused alumina, in grit size of 3/8 inch or less. Excluded from the scope of the investigation is crude artificial corundum in which particles with a diameter greater than 3/8 inch constitute at least 50 percent of the total weight of the entire batch. The scope includes brown artificial corundum in which particles with a diameter greater than 3/8 inch constitute less than 50 percent of the total weight of the batch." Aluminum oxide is provided for in subheading 2818.10.20 of the Harmonized Tariff Schedule (HTS) with a normal trade relations tariff rate of 1.3 percent *ad valorem*, applicable to imports from China.

[2] *Federal Register* notices cited in the tabulation are presented in app. A.

[3] The petition alleged LTFV margins to be as follows: based on a comparison of export value to normal value, using India as a surrogate country for China, petitioners estimate a margin of 131.38 percent.

[4] A list of witnesses appearing at the conference is presented in app. B.

[5] Importer questionnaire responses have been used for China with the view that they convey a more complete representation of the volume of imports from China than official statistics. In particular, ***. Using importer questionnaire responses yields a level of imports from China 20 percent higher, on average, than using official statistics. Imports from other sources, other than imports from Canada and possibly Brazil, are believed to be predominately white and pink refined product (not included in this investigation). To the extent this is the case, imports of brown product from other sources are overstated.

THE SUBJECT PRODUCT

As noted on page I-1, the imported product subject to this investigation is defined as:

> Aluminum oxide is ground, pulverized or refined artificial corundum, also known as brown aluminum oxide or brown fused alumina, in grit size of 3/8 inch or less. Excluded from the scope of the investigation is crude artificial corundum in which particles with a diameter greater than 3/8 inch constitute at least 50 percent of the total weight of the entire batch. The scope includes brown artificial corundum in which particles with a diameter greater than 3/8 inch constitute less than 50 percent of the total weight of the batch.[6]

The Commission's determination regarding the appropriate domestic products that are "like" the subject imported products is based on a number of factors including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price.

Physical Characteristics and Uses

Refined brown aluminum oxide is a solid inorganic chemical of the formula Al_2O_3. It is one of the forms of aluminum oxide (alumina) in mined bauxites. It is mainly used in the manufacture of a variety of abrasive products, such as grinding wheels, discs, and blast media, and in various refractory applications, such as the linings of furnaces and ovens. Additionally, it is also used in the production of some ceramics, pigments, and chemical reagents.

Refined white and pink aluminum oxide are more chemically pure (in terms of aluminum oxide content) than refined brown aluminum oxide, and are ordinarily used in separate, specialized abrasive and refractory applications where brown aluminum oxide, because of its impurities, will not suffice.[7]

Manufacturing Process and Facilities and Production Employees

Production of refined brown aluminum oxide uses bauxite ores which have been oven dried at high heat (calcined) to drive off both free moisture and chemically combined water. The calcined bauxite is then heated to its melting point (about 2100 degrees F) in an electric arc furnace. The varying amounts of impurities, such as iron oxide, silica, and titania, are removed in the electric arc furnace by melting the calcined bauxite with additions of carbon and iron. The carbon reacts with the oxygen in the impurities to form carbon monoxide gas, and the impurities are reduced to their corresponding metals, which, being heavier than aluminum oxide, settle to the bottom of the melt. The addition of iron to the melt results in the formation of iron salts (e.g., ferrosilicates) which also settle to the bottom. The brown aluminum oxide ingot is cooled and removed from the vessel. The impurities are removed from the bottom of the ingot, and the brown aluminum oxide is then refined (crushed, ground, and screened) into specific particle sizes. The sized material is then packaged for shipping to end users and distributors.

Refined brown aluminum oxide is produced in facilities separate from white and pink aluminum oxide because there must be no mixture of brown aluminum oxide into the white and pink products.[8] Washington Mills produces its brown and white products in separate facilities. Likewise, Treibacher

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[6] 67 FR 77223, December 17, 2002.

[7] Petitioners' postconference brief, pp. A-4-A-5.

[8] Petitioners' postconference brief, p. A-5.

produces its brown and white products in separate facilities; the brown is produced in Niagara Falls, NY, and the white in Andersonville, GA.

Interchangeability and Customer and Producer Perceptions

Refined white and pink aluminum oxide are reportedly perceived differently by customers than refined brown aluminum oxide, and are ordinarily used in specialized applications where refined brown aluminum oxide is not suitable.[9]

According to the petitioners and testimony at the conference in this investigation, domestically produced and Chinese produced refined brown aluminum oxide are fully interchangeable and viewed by customers as being of the same quality.[10] The product is made to American National Standards Institute (ANSI) specifications, with many customers asking for certification. Both U.S. and Chinese producers will certify that their products have met the ANSI standards.[11]

Channels of Distribution

Refined brown aluminum oxide shares the same channels of distribution as refined white and pink aluminum oxide, being sold to distributors and end users.[12] During the period examined, U.S. producers sold more of their refined brown product to end users, whereas importers generally sold more to distributors. However, by 2001, both U.S. producers and importers were about evenly split on the share going to end users and distributors, with the former sending 51.2 percent to end users and 48.8 percent to distributors and the latter sending 47.8 percent to end users and 52.2 percent to distributors. More detailed information on channels of distribution can be found in Part II of this report, *Conditions of Competition in the U.S. Market.*

Price[13]

Information with regard to prices of refined brown aluminum oxide is presented in Part V of this report, *Pricing and Related Information.* Refined brown aluminum oxide reportedly sells for about half the price of refined white and pink aluminum oxide.[14]

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[9] Petitioners' postconference brief, p. 5.

[10] Petitioners' postconference brief, p. A-5 and conference transcript, p. 46.

[11] Conference transcript, p. 46.

[12] Petitioners' postconference brief, p. A-5.

[13] On November 16, 1948, the U.S. District Court for the Western District of New York entered a final judgment perpetually enjoining Exolon Company (now owned by Washington Mills) and other named defendants from circulating or exchanging, directly or indirectly, any price lists or price quotations, with or among any manufacturer of artificial abrasive grain (aluminum oxide and silicon carbide) in advance of the publication, circulation, or communication of such price lists or price quotations to its purchasers and distributors. None of the other current U.S. producers are known to have been named defendants.

[14] Id.

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

CHANNELS OF DISTRIBUTION AND MARKET CHARACTERISTICS

Refined brown aluminum oxide is produced from crude brown aluminum oxide. There are currently no U.S. producers of crude brown aluminum oxide and five U.S. producers of refined brown aluminum oxide. Producers sell refined brown aluminum oxide to distributors and end users. The U.S. end-user market for refined brown aluminum oxide is segmented into refractory, bonded/coated, and general industrial users. The refractory market is the largest, consisting of comparatively fewer customers requiring large quantities of relatively coarser refined brown aluminum oxide. These customers use refined brown aluminum oxide as a heat resistant lining to furnaces and crucibles for ultimate use in foundry, iron, and steel industries. The bonded/coated market uses the product to make grinding wheels (bonded) and coated abrasives, such as sand paper and abrasive cloth. The general industrial market consists of varied surface preparation applications such as blasting, polishing, buffing, and rust removal. Petitioners note that the refractory and bonded/coated customers tend to purchase directly from manufacturers or importers, while general industrial customers tend to purchase from distributors.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Based on available information, U.S. producers have the ability to respond to changes in demand with moderate to large changes in the quantity of shipments of U.S.-produced refined brown aluminum oxide to the U.S. market. The main factors examined in assessing this degree of responsiveness are unused capacity, the existence of alternate markets, and inventories.

Industry Capacity

Data provided by U.S. producers in their questionnaire responses indicate that capacity utilization rates were *** percent in 1999, *** percent in 2000, and *** percent in 2001; interim data also indicate a decline in capacity utilization, with the rate at *** percent in January-September 2001 and *** percent in the corresponding period of 2002. These data indicate that U.S. producers have a *** of unused capacity with which they could increase production in response to price changes for refined brown aluminum oxide.

Inventory Levels

Data from the U.S. producers indicate that inventories of refined brown aluminum oxide were equivalent to between *** and *** percent of total shipments during the period for which data were collected. These data indicate U.S. producers have the ability to use inventories as a means of responding to price changes.

Export Markets

Only two producers reported exports of refined brown aluminum oxide.[1] Information from U.S. producers' questionnaire responses indicates that U.S. producers exported refined brown aluminum oxide to *** during the period for which data were collected. U.S. producers' exports accounted for between *** and *** percent of their total shipments of refined brown aluminum oxide. This *** level of exports indicates that U.S. refined brown aluminum oxide producers have the ability to divert shipments to or from the U.S. market.

Production Alternatives

***. Thus, the domestic supply response is constrained by this inability to switch production between refined brown aluminum oxide and other products.

U.S. Demand

Based on available information, U.S. aggregate demand for refined brown aluminum oxide is likely to respond little to changes in refined brown aluminum oxide prices. The main factor contributing to this low degree of price sensitivity is the lack of viable substitute products.

Demand Characteristics

The U.S. end-user market for refined brown aluminum oxide is segmented into refractory, bonded/coated, and general industrial users. The refractory market is the largest, consisting of comparatively fewer customers requiring large quantities of relatively coarser refined brown aluminum oxide. These customers use refined brown aluminum oxide as a heat-resistant lining to furnaces and crucibles for ultimate use in foundry, iron, and steel industries. The bonded/coated market uses the product to make grinding wheels (bonded) and coated abrasives, such as sand paper and abrasive cloth. Refined brown aluminum oxide serves as a cutting tool to grind down ferrous material, such as in ceramic deburring, or to roughen, shape, buff, polish, or finish a workpiece. The general industrial market consists of varied surface preparation applications such as blasting (such as pressure-blasting prior to painting to create a smooth finish), polishing, buffing, and rust removal.

All producers cited increased imports from China as a significant change in the market. Some firms (producers and importers) noted an overall increase in competition due to more brokers and distributors emerging in the market; this reportedly resulted in a reduction in the margins on refined brown aluminum oxide. Only one importer cited increases in Internet sales. While some found that demand followed a cyclical business pattern, others found minimal to steady declines in U.S. demand possibly attributable to the slowing economy. Respondents that identified and provided explanations for declining demand cited several factors, including (1) technological changes that reduce or eliminate the need for deburring or other finishing processes; (2) the importation of intermediate parts using refined brown aluminum oxide, such as imported refractories and grinding wheels;[2] (3) the decrease in basic industry applications in the United States; and (4) increase in imported finished parts.

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[1] ***.

[2] One importer, ***, noted switching from domestic sourcing to Chinese imports in order to remain competitive with grinding wheels imported from China.

Substitute Products

In general, most firms reported that there were no commercially viable substitute products for refined brown aluminum oxide. Certain products, such as emery, garnet, silicon carbide, white fused aluminum, bauxite, glass beads, steel shot and grit, and zirconia aluminum, can be substituted for refined brown aluminum oxide in specific applications, but this generally results in lower efficiency and higher costs.

Cost Share

Only two producers[3] provided estimates of refined brown aluminum oxide costs in customer total costs. The first producer's estimates were: abrasives (*** percent), sand blasting (minimal), and refractories (*** percent). The second producer's estimates were: bonded products (*** to *** percent), coated products (*** percent), refractories (*** to *** percent), and general industrial (less than 10 percent).

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported refined brown aluminum oxide depends upon such factors as relative prices, quality, and conditions of sale. Based on available data in this preliminary phase of the investigation, as discussed below, staff believes that there is a moderate degree of substitution between domestic refined brown aluminum oxide and subject imports from China.

Factors Affecting Sales

Questionnaire responses reveal general agreement on the factors affecting sales between U.S.-produced and subject refined brown aluminum oxide (table II-1). One producer noted that availability is no longer a contributing factor to sales as the Chinese product is increasingly warehoused in the United States. Several importers, however, noted other factors affecting sales such as availability (noting a difficulty obtaining product from Brazil or Europe), product quality, producer technical support, producer product range, and minimum order requirements among some U.S. producers. One producer commented that the U.S. product is preferred for grinding wheel applications.

Table II-1
Refined brown aluminum oxide: Perceived importance of differences in factors other than price between U.S. sales of refined brown aluminum oxide produced in the United States and in other countries

* * * * * * *

Comparison of Domestic and Subject Imported Refined Brown Aluminum Oxide

Questionnaire responses reveal general agreement on the issue of interchangeability between U.S.-produced and subject refined brown aluminum oxide, with *** among producers (table II-2). Importers that reported limitations in the degree of interchangeability cited differences in quality levels of refined brown aluminum oxide and availability (noting a difficulty in obtaining product from

[3] ***.

Table II-2
Refined brown aluminum oxide: Perceived degree of interchangeability of product produced in the United States and in other countries

* * * * * * *

international sources other than China). One importer commented that the Chinese product provided better price, quality, and availability.

PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged margin of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of five firms that accounted for all U.S. production of refined brown aluminum oxide during 2002.

U.S. PRODUCERS

Petitioner Washington Mills produces artificial abrasives, including aluminum oxide abrasives, at facilities located in Tonawanda, NY, Niagara Falls, NY, and North Grafton, MA.[1] In addition, it also has aluminum oxide production facilities located in Canada and the United Kingdom. In 2001, Washington Mills accounted for *** percent of domestic production of refined brown aluminum oxide.

In its plants in Canada, Washington Mills produces crude aluminum oxide from bauxite in electric arc furnaces, performs coarse crushing, and then ships this output to its facilities in the United States where it further crushes, grinds, and sieves the product, and ultimately packs the product for sale to its customers. In addition to crude product from Canada, Washington Mills also uses crude aluminum oxide imported from China.[2]

Washington Mills' original production facility, established in 1868, is located in North Grafton, MA. In 1986, Washington Mills acquired the electromaterials operations of Carborundum Co., which owned and operated a production facility in Niagara Falls, NY.[3] In August 2001, Washington Mills acquired Exolon-ESK Co., an aluminum oxide producer with production facilities located in Tonawanda, NY.

The two other petitioning firms, Treibacher and C-E Minerals, are both owned by Imerys, a multinational corporation headquartered in France and a world leader in the refractory and abrasives fields.[4] Treibacher is a worldwide producer of minerals for the abrasive industry while C-E Minerals is a producer of minerals primarily for the refractory industry. Treibacher produces refined brown aluminum oxide at its manufacturing facility in Niagara Falls, NY.[5] Through its corporate parent,

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[1] Washington Mills is headquartered in North Grafton, MA.

[2] Crude aluminum oxide is not subject to this investigation. In addition to the crude imports, Washington Mills also reported imports of the refined product, stating: "***." Washington Mills' importer questionnaire.

As a share of total reported imports of refined product from China, Washington Mills' imports amounted to *** percent in 1999, 2000, 2001, and January-September 2002, respectively. Washington Mills' imports of refined product from China were equivalent to *** percent of its production in 1999, 2000, 2001, and January-September 2002, respectively.

[3] This facility became the Washington Mills Electro Minerals Corp., a subsidiary of Washington Mills, as a result of the acquisition.

[4] Petition, p. 4. Imerys is also a 50-percent owner of Graystar LLC (Graystar) located in Bluffton, SC, an importer of refined brown aluminum oxide from China. In addition, Imerys reportedly may have ownership positions in some Chinese producers of refined brown aluminum oxide. Id.

[5] Conference transcript, p. 16. Additionally, Treibacher produces white aluminum oxide at its production facility in Andersonville, GA. Id. White aluminum oxide is not subject to this investigation. In 2001, Treibacher accounted for *** percent of reported domestic production of refined brown aluminum oxide. Insofar as imports

(continued...)

Treibacher Schleifmittel GmbH, Treibacher North America is affiliated with Guizhou Treibacher Schleifmittel Co., Ltd., a Chinese producer of refined brown aluminum oxide.

C-E Minerals is a sister company of Treibacher, with 100 percent common ownership, and has a plant in Newell, WV, which produces the subject product. Prior to Imerys' July 2000 acquisition of Treibacher's worldwide operations, C-E Minerals had been a "major importer" of refined brown aluminum oxide from China and did not produce the product domestically.[6] As part of the post-acquisition business plans, the decision was made to cease C-E Minerals' imports of refined brown aluminum oxide into the United States which were in competition with Treibacher's production.[7]

Subsequently, C-E Minerals made a minimal investment, approximately a "twentieth" of Treibacher's investment in its Niagara Falls operations, to produce three or four grades of refined brown aluminum oxide grain for a few refractory customers.[8] By comparison, Washington Mills and Treibacher produce "hundreds of different sizes of brown aluminum oxide."[9] During interim 2002, when it ceased importation from China and began domestic production, C-E Minerals accounted for *** percent of reported U.S. production of refined brown aluminum oxide.

Great Lakes Minerals, LLC (Great Lakes), formed in March 1999, is a joint venture owned by ALCOA World Chemicals (***), PE Materials (***), and PR Minerals (***) with production facilities located in Wurtland, KY.[10] The plant was designed to ***.[11] *** of Great Lakes' purchases for further processing are imported from China. As a share of total reported imports from China, Great Lakes' imports amounted to *** percent for 1999, 2000, 2001, and January-September 2002, respectively. Great Lakes accounted for *** percent of reported U.S. refined brown aluminum oxide production in 2001.[12] Its imports of refined product from China were equivalent to *** percent of its production in 1999, 2000, 2001, and January-September 2002.

Detroit Abrasives is located in Owosso, MI. It purchases crude brown aluminum oxide from Canada and China, then crushes it and sieves it into refined brown aluminum oxide as a final product.[13] In 2001, Detroit Abrasives accounted for *** percent of domestic refined brown aluminum oxide production.

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[5] (...continued)
are concerned, as a share of total reported imports from China, Treibacher's imports amounted to *** percent for 1999, 2000, 2001, and January-September 2002, respectively. Treibacher indicated that it imported from China as a "***." Treibacher's importer questionnaire. Treibacher's imports of refined product from China were equivalent to *** percent of its production in 1999, 2000, 2001, and January-September 2002, respectively.

[6] Conference transcript, p. 17. As a share of total reported imports from China, C-E Minerals' imports amounted to *** percent for 1999, 2000, and 2001, respectively.

[7] Id.

[8] Id., pp. 17-18. C-E Minerals began production in June 2002. From 1999 to 2001, C-E Minerals ***.

[9] Id., p. 18. According to Berndt Durstberger, CEO, Treibacher, and COO, C-E Minerals: "This recent change in C-E's business plan has probably had a short-term impact on Chinese imports of grain. However, there is no question in my mind that with the huge excess capacity in China to produce brown aluminum oxide grain and their ridiculously low prices other importers will quickly rush to fill in this void."

[10] Great Lakes ***.

[11] Great Lakes' producer questionnaire. Great Lakes sells refined brown aluminum oxide to the refractory and abrasive industries.

[12] Table C-2 presents summary data with Great Lakes' producer data excluded.

[13] Detroit Abrasives ***. ***.

Data provided by U.S. producers with respect to production capacity, production, capacity utilization, shipments, end-of-period inventories, and employment-related indicators are provided in table III-1.

Table III-1
Refined brown aluminum oxide: U.S. production capacity, production, capacity utilization, shipments, end-of-period inventories, and employment-related indicators, 1999-2001, January-September 2001, and January-September 2002

* * * * * * *

PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

Twelve firms, believed to account for virtually all imports of refined brown aluminum oxide from China, provided trade data to the Commission. As noted earlier in this report, each of the five U.S. producers of refined brown aluminum oxide imported the subject product from China during all or part of the period examined in this investigation. U.S. producers Great Lakes and C-E Minerals were *** during the period, accounting for *** percent and *** percent, respectively, of reported imports from China in 2001. Great Lakes imported ***, while C-E Minerals ceased importation in 2002 when it began its U.S. production operations in Newell, WV.[1] In 2001, petitioners Washington Mills and Treibacher accounted for *** percent and *** percent, respectively, of total reported imports from China.[2]

Aside from the producers, seven other firms reported imports of subject product, with two (***) accounting for the major portion of those imports.[3] Other companies providing import data are ***.[4]

U.S. IMPORTS

Table IV-1 presents data on U.S. imports of refined brown aluminum oxide based on importer questionnaire responses for China and official statistics of Commerce for other sources. Importer questionnaire responses have been used for China with the view that they convey a more complete representation of the volume of imports from China than official statistics. In particular, ***. Using importer questionnaire responses yields a level of imports from China 20 percent higher, on average, than using official statistics. Insofar as imports from other sources, other than imports from Canada and possibly Brazil, the imports are believed to be predominately white and pink refined product (not included in this investigation). To the extent the latter is the case, imports of brown product from other sources are overstated.

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[1] As noted earlier in this report, C-E Minerals is a sister company of Treibacher, ***, with 100 percent common ownership. Prior to Imerys' July 2000 acquisition of Treibacher's worldwide operations, C-E Minerals had been a "major importer" of refined brown aluminum oxide from China. As part of that acquisition, the decision was made to cease C-E Minerals' imports of refined brown aluminum oxide into the United States, which were in competition with Treibacher's production. Conference transcript, p. 17.

[2] Treibacher and Washington Mills were the *** and *** largest importers, respectively, of subject product during the period examined. The other U.S. producer, Detroit Abrasives, reported *** tons of subject product imports during the period.

[3] ***.

[4] ***.

Table IV-1
Refined brown aluminum oxide: U.S. imports, by sources, 1999-2001, January-September 2001, and January-September 2002

Source	Calendar year			January-September	
	1999	2000	2001	2001	2002
			Quantity (*short tons*)		
China	37,485	61,538	74,258	59,877	29,205
Other sources[1]	55,959	80,799	52,021	41,057	23,739
Total	93,444	142,337	126,279	100,934	52,944
			Value (*1,000 dollars*)[2]		
China	11,853	18,328	19,664	16,143	8,718
Other sources[1]	43,325	56,832	39,281	30,664	25,451
Total	55,178	75,160	58,945	46,807	34,169
			Unit value (*per ton*)[2]		
China	$316.21	$297.83	$264.81	$269.60	$298.51
Other sources[1]	774.24	703.37	755.10	746.86	1,072.13
Average	590.50	528.04	466.78	463.74	645.39
			Share of quantity (*percent*)		
China	40.1	43.2	58.8	59.3	55.2
Other sources[1]	59.9	56.8	41.2	40.7	44.8
Total	100.0	100.0	100.0	100.0	100.0
			Share of value (*percent*)		
China	21.5	24.4	33.4	34.5	25.5
Other sources[1]	78.5	75.6	66.6	65.5	74.5
Total	100.0	100.0	100.0	100.0	100.0

[1] Includes undetermined amounts of white and pink aluminum oxide.
[2] Landed, duty-paid.

Note.–Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to Commission questionnaires (China) and official Commerce statistics.

U. S. producers of refined brown aluminum oxide accounted for a substantial portion of imports of the product from China, as shown in table IV-2.

Table IV-2
Refined brown aluminum oxide: U.S. producers' imports from China, total imports from China, and U.S. producers' imports as a share of total imports from China, 1999-2001, January-September 2001, and January-September 2002

* * * * * * *

APPARENT U.S. CONSUMPTION

Data concerning apparent U.S. consumption are presented in table IV-3.

Table IV-3
Refined brown aluminum oxide: U.S. producers' U.S. shipments, U.S. imports, by sources, and apparent U.S. consumption, 1999-2001, January-September 2001, and January-September 2002

Item	Calendar year			January-September	
	1999	2000	2001	2001	2002
	Quantity (*short tons*)				
U.S. producers' U.S. shipments	91,335	89,486	73,248	56,504	55,735
U.S. imports from–					
China	32,745	52,031	56,765	44,448	47,732
Other sources[1]	55,959	80,799	52,021	41,057	23,739
Total	88,704	132,830	108,786	85,505	71,471
Apparent U.S. consumption	180,039	222,316	182,034	142,009	127,206
	Value (*1,000 dollars*)				
U.S. producers' U.S. shipments	50,940	46,433	39,726	30,594	27,816
U.S. imports[2] from–					
China	11,315	17,177	18,377	14,316	15,059
Other sources[1]	43,325	56,832	39,281	30,664	25,451
Total	54,640	74,009	57,658	44,980	40,510
Apparent U.S. consumption	105,580	120,442	97,384	75,574	68,326

[1] Includes undetermined amounts of white and pink aluminum oxide.
[2] Landed, duty-paid.

Note.–To avoid double-counting, U.S. producers' shipments exclude ***; data on imports from China reflect U.S. shipments of imports as reported in questionnaires.

Source: Compiled from data submitted in response to Commission questionnaires (U.S. and China) and official Commerce statistics.

U.S. MARKET SHARES

Data concerning U.S. market shares are presented in table IV-4.

Table IV-4
Refined brown aluminum oxide: Apparent U.S. consumption and market shares, 1999-2001, January-September 2001, and January-September 2002

Item	Calendar year			January-September	
	1999	2000	2001	2001	2002
			Quantity (*short tons*)		
Apparent U.S. consumption	180,039	222,316	182,034	142,009	127,206
			Value (*1,000 dollars*)		
Apparent U.S. consumption	105,580	120,442	97,384	75,574	68,326
			Share of quantity (*percent*)		
U.S. producers' U.S. shipments	50.7	40.3	40.2	39.8	43.8
U.S. imports from--					
China	18.2	23.4	31.2	31.3	37.5
Other sources[1]	31.1	36.3	28.6	28.9	18.7
All countries	49.3	59.7	59.8	60.2	56.2
			Share of value (*percent*)		
U.S. producers' U.S. shipments	48.2	38.6	40.8	40.5	40.7
U.S. imports from--					
China	10.7	14.3	18.9	18.9	22.0
Other sources[1]	41.0	47.2	40.3	40.6	37.2
All countries	51.8	61.4	59.2	59.5	59.3

[1] Includes undetermined amounts of white and pink aluminum oxide.

Note.–To avoid double-counting, U.S. producers' shipments exclude ***; data from China reflect U.S. shipments of imports as reported in questionnaires.

Source: Compiled from data submitted in response to Commission questionnaires (U.S. and China) and official Commerce statistics.

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

The basic raw material used in the production of refined brown aluminum oxide is crude brown aluminum oxide. There is currently no production of crude brown aluminum oxide in the United States. Crude brown aluminum oxide is imported in loose bulk by producers with crushing capabilities who produce various types of grain. The petitioner, Washington Mills, obtains its crude brown aluminum oxide from Canada after which it is crushed, screened, sieved, and packaged into a final product, refined brown aluminum oxide, at one of its three facilities: the North Grafton, MA facility, the Niagara Falls, NY facility, and the Tonawanda, NY facility. The remaining four domestic producers, Detroit Abrasives, Treibacher (owned by Imerys), C.E. Minerals (owned by Imerys), and Great Lakes, also import crude brown aluminum oxide for processing.

U.S. Inland Transportation Costs and Geographic Markets

Generally, producers and importers serviced the entire United States, with a few firms reporting that their sales were concentrated in the Mideast or Midwest regions. Although lead times vary from 1-2 days to 3-4 months, most respondents hovered around the 3-5 day range. Transportation costs of refined brown aluminum oxide for delivery within the United States vary from firm to firm but tend to account for a relatively small percentage of the total cost of the product. For U.S. producers, these costs accounted for between *** and *** percent of the total cost of refined brown aluminum oxide, with a simple average of approximately *** percent. For the importers who provided usable responses to this question, these costs accounted for between *** and *** percent of the total cost of the product, with a simple average of approximately *** percent. Responses were mixed from U.S. producers and importers with regard to whether refined brown aluminum oxide is sold on an f.o.b. or delivered basis. All producers sold the brown aluminum oxide on an f.o.b. plant or warehouse basis, with all but one indicating that transportation was arranged by the producer. Importers were more varied, including sales on an f.o.b. plant or warehouse basis and c.i.f. port or company location. Although the responding importers also indicated arranging transportation to their customers, a substantial amount (three of nine applicable respondents) indicted that the purchasers arranged transportation.

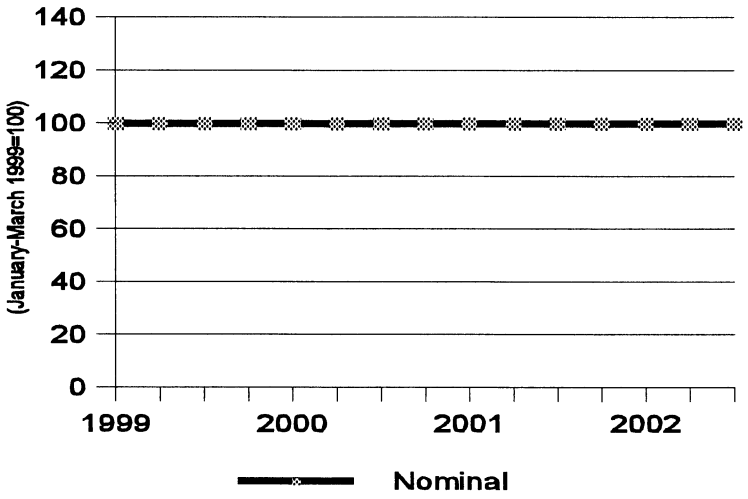
Firms were also requested to provide estimates of the percentages of their shipments that were made within specified distance ranges. U.S. producers reported that they ship refined brown aluminum oxide throughout the entire United States; they also reported that *** percent of shipments occurred within 100 miles with a range of *** to *** percent, *** percent occurred within 101 to 1,000 miles with a range of *** to *** percent, and *** percent occurred at distances over 1,000 miles with a range of *** to *** percent. For the importers that provided usable responses to this question, an average of *** percent of shipments occurred within 100 miles with a range of *** to *** percent, *** percent occurred within 101 to 1,000 miles with a range of *** to *** percent, and *** percent occurred at distances over 1,000 miles with a range of *** to *** percent.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Chinese yuan is pegged to the U.S. dollar and, thus, remained essentially unchanged (relative to the U.S.

dollar) from January 1999 through September 2002. Real values for the Chinese yuan cannot be calculated due to the unavailability of the relevant Chinese producer price information (figure V-1).

Figure V-1
Exchange rates: Index of the nominal values of the Chinese yuan relative to the U.S. dollar, by quarters, January 1999-September 2002



Source: International Monetary Fund, *International Financial Statistics*, December 2002 retrieved from *http://www.imfstatistics.org* on December 16, 2002.

PRICING PRACTICES

Pricing Methods

Available information from U.S. producers' questionnaires reveals that approximately *** percent of sales of U.S.-produced refined brown aluminum oxide in the United States was sold pursuant to contracts, and *** percent was sold on a spot basis. In general, producers priced refined brown aluminum oxide on a case-by-case basis, with price schedules developed annually and contracts negotiated annually. Though not all producers responded, those that did indicated that contracts usually fix price and sometimes quantity for the contract duration. The two producers with responses did not have meet-or-release provisions. Only one respondent (of only two responses) had standard quantity requirements.

Seven importers reported information on contract and spot sales. Available information from questionnaires reveals that approximately *** percent of sales of imported refined brown aluminum oxide was sold pursuant to contracts, and *** percent was sold on a spot basis. In general, importers also priced and provided discounts for refined brown aluminum oxide on a case-by-case basis, with contracts negotiated annually. Though most importers did not respond, those that did indicated that contracts usually fix price and sometimes quantity for the contract duration. Only one of four responding importers had meet-or-release provisions. Only two of four responding importers had standard quantity requirements (usually truckload and varied with each contract).

Sales Terms and Discounts

Most producers did not have a firm discount policy, though most cited competition and volume as factors in offering customer discounts. With minimal variation, payment terms are 1/10, net 30 for most producers. Importer discounts are generally provided on a case-by-case basis; only one importer reported standard volume discounts. The remaining importers that responded did not have a firm discount policy, though most cited competition as the driving factor in offering customer discounts. With some variation, payment terms are 1/10, net 30 for most importers.

PRICE DATA

The Commission requested quarterly data for the total quantity and f.o.b. value of two refined brown aluminum oxide products. Data were requested for the period January 1999 through September 2002. The products for which pricing data were requested are as follows:

Product 1.–Refined brown aluminum oxide (94-97% Al_2O_3 by weight by difference) in American National Standards Institute Table 2 sizing, Grit size 80.

Product 2.--Refined brown aluminum oxide (94-97% Al_2O_3 by weight by difference) in American National Standards Institute Table 3 sizing, Grit size 60.

Three U.S. producers[1] and five importers[2] provided usable pricing data for sales of the requested products in the U.S. market, although not all firms reported pricing data for all products for all quarters. The reported price data accounted for *** of the quantity of domestically-produced commercial shipments of refined brown aluminum oxide in 2001, as well as *** of shipments of refined brown aluminum oxide from China. Data on reported weighted-average prices and quantities for products 1 and 2 are presented in tables V-1 and V-2, and figures V-2 and V-3.

Price Trends and Comparisons

During the period for which data were collected, prices for both domestic and Chinese refined brown aluminum oxide generally declined. Weighted-average f.o.b. prices for U.S.-produced product 1 declined irregularly from January-March 1999 to July-September 2002, falling 12.5 percent in that time. Prices for U.S. product 2 also declined irregularly in the period for which data were collected, falling 6.8 percent. Weighted-average prices for Chinese product 1 fell by 13.8 percent from January-March 1999 to July-September 2002, while prices for Chinese product 2 fell by 27.7 percent in that same time period.

As shown in table V-1, price comparisons for product 1 between the United States and China were possible in 15 quarters. In all 15 quarters, the Chinese product was priced below the U.S. product, with margins ranging from 15.3 to 33.9 percent and averaging 26.4 percent.

As shown in table V-2, price comparisons for product 2 between the United States and China were possible in 12 quarters. In all 12 quarters, the Chinese product was priced below the U.S. product, with margins ranging between *** and *** percent and averaging *** percent.

---

[1] ***. *** also provided pricing data for its sales of refined brown aluminum oxide in the U.S. market; these data have been included in the importer data because ***.

[2] ***.

Table V-1
Refined brown aluminum oxide: Weighted-average f.o.b. selling prices and quantities for product 1, and margins of underselling/(overselling), by quarters, January 1999-September 2002

* * * * * * *

Table V-2
Refined brown aluminum oxide: Weighted-average f.o.b. selling prices and quantities for product 2, and margins of underselling/(overselling), by quarters, January 1999-September 2002

* * * * * * *

Figure V-2
Weighted-average f.o.b. prices and total quantities for product 1, by countries and by quarters, January 1999-September 2002

* * * * * * *

Figure V-3
Weighted-average f.o.b. prices and total quantities for product 2, by countries and by quarters, January 1999-September 2002

* * * * * * *

LOST SALES AND LOST REVENUES

The petition contained information on allegations of lost sales due to imports of refined brown aluminum oxide from China. The 22 reported allegations of lost sales totaled between $*** and *** million and involved *** short tons of refined brown aluminum oxide. The lost sales allegations are reported in table V-3 and additional information provided by purchasers follows.[3]

* * * * * * *

Table V-3
Refined brown aluminum oxide: Lost sales allegations as reported by U.S. producers

* * * * * * *

[3] Petitioners also alleged lost sales to purchasers ***, but did not provide requisite quantity and/or price data.

PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

BACKGROUND

Five producers, which together accounted for all known U.S. commercial shipments and internal consumption and/or transfers to related companies of refined brown aluminum oxide, supplied financial data on their refined brown aluminum oxide operations.[1] Only one producer (***) reported transfers of refined brown aluminum oxide to related firms (approximately *** percent of 2001 total sales value).

OPERATIONS ON REFINED BROWN ALUMINUM OXIDE

The aggregate results of the U.S. producers' operations on refined brown aluminum oxide are presented in table VI-1. While total sales volume increased somewhat from 1999 to 2000, total sales value decreased slightly for the same period, due to a decrease in the average unit sales value. Operating income decreased substantially from 1999 to 2000. Even though both total sales volume and value decreased from 2000 to 2001, operating income increased substantially, mainly due to an increase in the average unit sales value. From 1999 to 2000, the per-unit sales value decreased by *** and per-unit total cost (combined unit cost of goods sold (COGS) and unit selling, general, and administrative (SG&A) expenses) decreased by *** per short ton, resulting in a decrease in the per-unit operating income from *** in 1999 to *** in 2000. Per-unit profitability rebounded fully from 2000 to 2001, due mainly to an increased per-unit sales value (by ***).

While total sales volume increased somewhat from interim 2001 to interim 2002, total sales value decreased slightly for the same period. The per-short-ton net sales value decreased substantially from interim 2001 to interim 2002, by ***, whereas total unit cost decreased by ***, resulting in an operating income of *** per short ton in interim 2002, compared to an operating income of ***per short ton in interim 2001.

The results of operations by individual firms are presented in table VI-2. The table presents selected financial data on a company-by-company basis for net sales (quantity and value), operating income/(loss), and the ratio of operating income/(loss) to net sales value. *** experienced operating income for the entire period, while *** had operating losses for the same period.[2] Per-unit sales value differed substantially among producers, for instance ranging from *** in interim 2002.

Table VI-1
Results of operations of U.S. producers in the production of refined brown aluminum oxide, fiscal years 1999-2001, January-September 2001, and January-September 2002

* * * * * * *

Table VI-2
Results of operations of U.S. producers, by firms, in the production of refined brown aluminum oxide, fiscal years 1999-2001, January-September 2001, and January-September 2002

* * * * * * *

[1] All producers' fiscal years end on December 31. ***.

[2] ***.

Selected aggregate per-unit cost data of the producers on their operations, i.e., unit COGS and unit SG&A expenses, are presented in table VI-3. Total unit cost decreased overall over the period, mainly due to a decrease in raw materials costs.

Table VI-3
Unit costs (per short ton) of U.S. producers in the production of refined brown aluminum oxide, fiscal years 1999-2001, January-September 2001, and January-September 2002

* * * * * * *

A variance analysis showing the effects of prices and volume on the producers' sales of refined brown aluminum oxide, and of costs and volume on their total cost, is shown in table VI-4. The analysis is summarized at the bottom of the table. The analysis indicates that the increase in operating income (***) between 1999 and 2001 was attributable mainly to the positive effects of decreased costs and expenses (***), combined with the negative effects of the decreased price (***). An increase in operating income between the interim periods was attributable to both a favorable net cost/expense variance (decreased unit costs and expenses) and an unfavorable price variance (a decrease in unit sales value).

Table VI-4
Variance analysis of operations of U.S. producers in the production of refined brown aluminum oxide, fiscal years 1999-2001, January-September 2001, and January-September 2002

* * * * * * *

CAPITAL EXPENDITURES, R&D EXPENSES, AND INVESTMENT IN PRODUCTIVE FACILITIES

U.S. producers' capital expenditures and research and development (R&D) expenses, together with the value of their fixed assets, are presented in table VI-5. Capital expenditures decreased between 1999 and 2001 because ***. Capital expenditures increased substantially in interim 2002 from interim 2001 because ***. Capital expenditures by individual firms are presented in table VI-6.

Aggregated R&D expenses increased between 1999 and 2001, but declined between the two interim periods. The original cost of fixed assets increased steadily over the period.

Table VI-5
Capital expenditures, R&D expenses, and assets utilized by U.S. producers in their production of refined brown aluminum oxide, fiscal years 1999-2001, January-September 2001, and January-September 2002

* * * * * * *

Table VI-6
Capital expenditures by U.S. producers, by firms, in their production of refined brown aluminum oxide, fiscal years 1999-2001, January-September 2001, and January-September 2002

* * * * * * *

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual negative effects on their return on investment, or their growth, investment, ability to raise capital, existing development and production efforts, or the scale of capital investments as a result of imports of refined brown aluminum oxide from China. The producers' comments are presented in appendix D.

PART VII: THREAT CONSIDERATIONS

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

THE INDUSTRY IN CHINA

The abrasives industry in China began in the 1940s, when what became known as Grinding Wheel Factory No. 1 was started by the Japanese. During the next two decades, the industry expanded with the assistance and transfer of technology from East Germany. This expansion was a part of the Chinese government's First Five Year Program. Each new factory was given the name Grinding Wheel Factory with a sequential number. The term "Grinding Wheel Factory" was all-inclusive, and any factory could be assigned to produce one or more of the following: raw materials for bonded and coated abrasives, bonded abrasives, coated abrasives, refractories and superabrasives. Grinding Wheel Factories No.1 through No.7 were established, each with its own mission and area of specialization. In addition, numerous other small manufacturers of abrasive materials were formed throughout China. Both refined and crude brown aluminum oxide are still produced by several of the Grinding Wheel Factories.[1]

According to information provided in the petition, China's level of production of brown aluminum oxide (refined and crude) in 2001 was estimated to be 550,000 to 600,000 short tons.[2] According to Chinese customs figures, China exported nearly 490,000 short tons of fused alumina (85 to 90 percent is estimated to have been brown aluminum oxide (refined and crude)).[3] In 2000, the United States (28.7 percent) was the top export market for Chinese exports, followed by Japan (27.0 percent), South Korea (7.7 percent), the Netherlands (4.5 percent), and South Africa (4.3 percent). Other export destinations included Canada, India, Italy, Taiwan, and Thailand.[4]

Petitioners provided a list of known Chinese producers[5] and exporters[6] of refined brown aluminum oxide. The producers and exporters are among the larger operations in both categories and are believed to account for most of the product exported to the United States. The Commission faxed foreign producer questionnaires to 13 producers and 4 exporters requesting information on the Chinese industry. The response of the one producer, ***, to respond is presented in table VII-1.

U.S. INVENTORIES OF PRODUCT FROM CHINA

Inventories of product reported by U.S. importers are presented in table VII-2.

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[1] *www.ceramicindustry.com/CDA/ArticleInformation/coverstory/BNPCoverStoryItem,* posted August 6, 2000.

[2] Petition, exhibit 33, *Industrial Minerals,* September 2001. At the conference in this investigation, a capacity estimate of 800,000 to 1 million tons was also given. Conference transcript, p. 44.

[3] Id.

[4] Id.

[5] Id., exhibit 5.

[6] Id., exhibit 6.

Table VII-1
Refined brown aluminum oxide: China's[1] production capacity, production, shipments, and inventories, 1999-2001, January-September 2001, January-September 2002, and projected 2002-2003

* * * * * * *

Table VII-2
Refined brown aluminum oxide: U.S. importers' end-of-period inventories of imports, 1999-2001, January-September 2001, and January-September 2002

* * * * * * *

U.S. IMPORTERS' CURRENT ORDERS

Four producers[7] and five other importers reported orders for approximately 7,500 short tons of imported product to be delivered between the end of September 2002 and the early part of 2003. Orders are split almost evenly between the two groups, with *** accounting for the major portion of imports by producers and *** accounting for most of the orders by other importers.

ANTIDUMPING DUTY ORDERS IN THIRD-COUNTRY MARKETS

In October 1997, an antidumping duty order on all types of fused alumina (including refined brown aluminum oxide) from China was put in place by the EU. The duty was a flat rate of 240 Euros per metric ton. The EU order expired in October 2002. According to Berndt Durstberger, CEO of Treibacher, the order was somewhat ineffective. At the conference in this investigation, he stated:

> "What we had observed over these past five years was that there was a very weak enforcement occurring in Europe {during} which we saw Chinese imports continue pouring into Europe unhindered basically through falsified country of origin certificates, material coming from South Africa and Vietnam where we know there is no production. Hence, our conclusion was in order to protect the honest customers who did not cheat, the correct thing, the proper thing to do as a producer was to say the material is coming in anyhow, and we do not support an antidumping duty that protects the cheaters and hurts honest people who do not resort to buying cheaper Chinese imports, and I think our opinion was heard being the major producer in Europe was the decisive."[8]

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[7] ***.

[8] Conference transcript, p. 33.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1022 (Preliminary)]

Refined Brown Aluminum Oxide From China

AGENCY: International Trade Commission.

ACTION: Institution of antidumping investigation and scheduling of a preliminary phase investigation.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731–TA–1022 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of refined brown aluminum oxide,[1] provided for in subheading 2818.10.20 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by January 6, 2003. The Commission's views are due at Commerce within five business days thereafter, or by January 13, 2003.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: November 20, 2002.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202–205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background. This investigation is being instituted in response to a petition filed on November 20, 2002, by Washington Mills Co., Inc., North Grafton, MA.

Participation in the investigation and public service list. Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO)

[1] The product covered by this investigation is ground, pulverized, or refined brown aluminum oxide. Crude aluminum oxide is excluded from the scope of the petition.

and BPI service list. Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference. The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on December 11, 2002, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Jim McClure (202–205–3191) not later than December 9, 2002, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions. As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before December 16, 2002, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means except to the extent provided by § 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

By order of the Commission.

Issued: November 22, 2002.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–30225 Filed 11–27–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-882]

Notice of Initiation of Antidumping Duty Investigation: Refined Brown Aluminum Oxide (Otherwise known as Refined Brown Artificial Corundum or Brown Fused Alumina) from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Initiation of Antidumping Duty Investigation

EFFECTIVE DATE: December 17, 2002.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Jim Mathews, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-4136 or (202) 482-2778, respectively.

SUPPLEMENTARY INFORMATION:

Initiation Of Investigation

The Petition

On November 20, 2002, the Department received a petition filed in proper form by Washington Mills Company, Inc. On November 27, 2002, the petition was amended to include two additional petitioners, C-E Minerals and Treibacher Schleifmittel Corporation (collectively, the petitioners). The Department received information supplementing the petition throughout the initiation period.

In accordance with section 732(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that imports of refined brown aluminum oxide from the People's Republic of China (PRC) are, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring an industry in the United States.

The Department finds that the petitioners filed the petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the antidumping investigation that they are requesting the Department to initiate. *See infra*, "Determination of Industry Support for the Petition."

Scope of Investigation

The merchandise covered by this investigation is ground, pulverized or refined artificial corundum, also known as brown aluminum oxide or brown fused alumina, in grit size of 3/8 inch or less. Excluded from the scope of the investigation is crude artificial corundum in which particles with a diameter greater than 3/8 inch constitute at least 50 percent of the total weight of the entire batch. The scope includes brown artificial corundum in which particles with a diameter greater than 3/8 inch constitute less than 50 percent of the total weight of the batch. The merchandise under investigation is currently classifiable under subheading 2818.10.20.00 of the *Harmonized Tariff Schedule of the United States*(HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioners to ensure that it accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 calendar days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that the Department's industry support determination, which is to be made before the initiation of the investigation, be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall either poll the industry or rely on other information in order to determine if there is support for the petition.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is

responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[1]

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

We reviewed the description of the domestic like product presented in the petition. At this time, we have no basis on the record to find the petition's definition of the domestic like product to be inaccurate. Therefore, we have adopted the domestic like product set forth in the petition, which is defined in the "Scope of Investigation" section above.

Finally, the Department has determined that, pursuant to section 732(c)(4)(A) of the Act, the petition contains adequate evidence of industry support and, therefore, polling is unnecessary. *See* the Import Administration Antidumping Investigation Initiation Checklist, Industry Support section, December 10, 2002 (Initiation Checklist), on file in the Central Records Unit, Room B-099 of the main Department of Commerce building. The Department has determined that the petitioners have demonstrated industry support representing over 50 percent of total production of the domestic like product. Therefore, the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(i) of the Act are met. Furthermore, because the Department received no opposition to the petition, the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition. Thus, the requirements of section 732(c)(4)(A)(ii) are also met. Accordingly, we determine that this petition is filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

[1] *See Algoma Steel Corp. Ltd., v. United States*, 688 F. Supp.639, 642-44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380-81 (July 16, 1991).

Export Price and Normal Value

The following are descriptions of the allegation of sales at less than fair value upon which the Department based its decision to initiate this investigation. The sources of data for the deductions and adjustments relating to the U.S. price and the factors of production are discussed in greater detail in the Initiation Checklist. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determination, we may re-examine the information and revise the margin calculation, if appropriate.

Regarding the information involving non-market economies (NME), the Department presumes, based on the extent of central government control in an NME, that a single dumping margin, should there be one, is appropriate for all NME exporters in the given country. In the course of the investigation, all parties will have the opportunity to provide relevant information related to the issues of a country's NME status and the granting of separate rates to individual exporters. *See, e.g., Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994).

Export Price

The petitioners based export price (EP) on the FOB PRC price of the subject merchandise as invoiced to one of the petitioners. No adjustments were made to this FOB price.

Normal Value

The petitioners allege that the PRC is an NME country, and that in all previous investigations the Department has determined that the PRC is an NME. *See, e.g., Notice of Final Determination in the Less Than Fair Value Investigation of Steel Wire Rope From the People's Republic of China*, 66 FR 12759, 12761 (Feb. 28, 2001). In accordance with section 771(18)(c) of the Act, any determination that a foreign country has at one time been considered an NME shall remain in effect until revoked. Therefore, the PRC will continue to be treated as an NME unless and until its NME status is revoked. Pursuant to section 771(18)(C)(i) of the Act, because the PRC's status as a NME remains in effect, the petitioners determined the dumping margin using an NME analysis.

The petitioners assert that India is the most appropriate surrogate country for the PRC, claiming that India is: (1) a market economy; (2) a significant producer of comparable merchandise; and (3) at a level of economic development comparable to that of the PRC in terms of per-capita gross national income. Based on the information provided by the petitioners, we believe that the petitioners' use of India as a surrogate country is appropriate for purposes of initiation of this investigation.

The petitioners valued the factors of production using the quantities of inputs to produce refined brown aluminum oxide as reported by one of the petitioners because the petitioners stated that current reliable information about PRC factor quantities was not reasonably available. The factors of production and usage amounts were derived from the petitioners' average actual production experience for various sizes of refined brown aluminum oxide during the period April through September 2002.

The surrogate values for bauxite and coke were based on the 2000–2001 annual report of Carborundum Universal Limited (CUMI), an Indian producer of refined aluminum oxide. The surrogate values for borings and electrodes were based on the values reported in the *Monthly Statistics of the Foreign Trade of India*. Labor was valued using the regression-based wage rate for the PRC provided by Import Administration's website and in accordance with 19 CFR 351.408(c)(3). The petitioners valued electricity using the 2000 price for India quoted in *Energy Prices & Taxes, Quarterly Statistics*, published by the International Energy Agency of the OECD. The petitioners made an adjustment to the sum of these values to account for a small amount of ferrosilicon produced and sold as a by-product.

To determine factory overhead, SG&A, and financial expenses, the petitioners relied on ratios derived from the financial statements of CUMI. The petitioners valued the by-product, ferrosilicon, by using their own sales value. Based on the information provided by the petitioners, we believe that the surrogate values represent information reasonably available to the

petitioners and are acceptable for purposes of initiation of this investigation.

Based upon a comparison of EP to normal value (NV), the petitioners estimate a margin of 131.38 percent.

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of refined brown aluminum oxide from the PRC are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of imports of the subject merchandise sold at less than NV.

The petitioners contend that the industry's injured condition is evident in the declining trends in net operating profits, net sales volumes, production employment, and capacity utilization. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* the Initiation Checklist.

Initiation of Antidumping Investigation

Based upon our examination of the petition on refined brown aluminum oxide, we have found that it meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of refined brown aluminum oxide from the PRC are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended pursuant to section 733(b)(1)(A) of the Act, we will make our preliminary determination no later than 140 days after the date of this initiation.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the Government of the PRC.

ITC Notification

We have notified the ITC of our initiation as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine no later than January 6, 2003, whether there is a reasonable indication that imports of refined brown aluminum oxide from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: December 10, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–31628 Filed 12–16–02; 8:45 am]

BILLING CODE 3510–DS–S

APPENDIX B

CONFERENCE WITNESSES

CALENDAR OF THE PUBLIC CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission's conference:

Subject:	Refined brown aluminum oxide from China
Inv. No.:	731-TA-1022 (Preliminary)
Date and Time:	December 11, 2002 - 9:30 a.m.

The conference in connection with this investigation was held in the Main Hearing Room, 500 E Street, SW, Washington, DC.

In Support of the Imposition of Antidumping Duties:

Schagrin Associates
Washington, DC
on behalf of

C-E Minerals
Treibacher Schleifmittel Corp.
Washington Mills Co., Inc.

Peter Williams, President, Washington Mills Co., Inc.
Don McLeod, Vice President - Marketing and Sales, Washington Mills Co., Inc.
Fred Silver, President, Exolon Company, a division of Washington Mills Co., Inc.
Berndt Durstberger, Chief Executive Officer, Treibacher Schleifmittel Corp.; Chief Operating Officer, C-E Minerals
Tim McCarthy, President, C-E Minerals
Harvey Plonsker, President, AGSCO Corp.
Webb Kane, President, Midvale Industries, Inc.
Thom Bell, Vice President and Sales Manager, Precision Finishing, Inc.
Gary Waterhouse, President, Local 4447-06 - United Steelworkers of America

Roger B. Schagrin–OF COUNSEL

APPENDIX C

SUMMARY DATA

Table C-1
Refined brown aluminum oxide: Summary data concerning the U.S. market, 1999-2001, January-September 2001, and January-September 2002

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Table C-2
Refined brown aluminum oxide: Summary data concerning the U.S. market (excluding Great Lakes), 1999-2001, January-September 2001, and January-September 2002

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APPENDIX D

EFFECTS OF SUBJECT IMPORTS ON U.S. PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

The Commission requested U.S. producers to describe any actual or potential negative effects on their return on investment, growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of refined brown aluminum oxide from China. (Questions III-8 and III-9). Their responses are as follows:

Actual Negative Effects

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Anticipated Negative Effects

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